

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE AND MEDICAID SERVICES		1. TRANSMITTAL NUMBER: <p style="text-align: center;">04-26</p>	2. STATE: <p style="text-align: center;">TEXAS</p>
TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE AND MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
4. PROPOSED EFFECTIVE DATE: October 2, 2004		5. TYPE OF PLAN MATERIAL (Circle One): <div style="display: flex; justify-content: space-between;"> <input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT </div> <p style="text-align: center;">COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)</p>	
6. FEDERAL STATUTE/REGULATION CITATION: 42 CFR 440.40	7. FEDERAL BUDGET IMPACT: SEE ATTACHMENT a. FFY 04 \$ 0 b. FFY 05 \$ 0		
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: SEE ATTACHMENT	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): SEE ATTACHMENT		
10. SUBJECT OF AMENDMENT: This amendment revises page 6i of Attachment 4.19-D, Reimbursement Methodology for Nursing Facilities. Page 6i relates to the redistribution of funds recouped through the enhanced direct care staff rate program from providers who failed to meet their staffing and/or spending requirements to providers who exceeded their staffing requirements. This process is called reinvestment. The amendment allows providers that were reclassified from a Level 0 to nonparticipants in fiscal year 2004 due to state legislation to be considered for reinvestment in fiscal years 2004 and 2005. The amendment also replaces references to the Texas Department of Human Services (DHS) with references to the Texas Health and Human Services Commission (HHSC) or its designee, or Medicaid, as appropriate.			
11. GOVERNOR'S REVIEW (Check One): <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL </div> <div style="width: 50%;"> <input checked="" type="checkbox"/> OTHER, AS SPECIFIED: Sent to Governor's Office this date. Comments, if any, will be forwarded upon receipt. </div> </div>			
12. SIGNATURE OF STATE AGENCY OFFICIAL: 13. TYPED NAME: David Balland 14. TITLE: Interim State Medicaid Director 15. DATE SUBMITTED: November 12, 2004	16. RETURN TO: David Balland Interim State Medicaid Director Post Office Box 13247 Austin, Texas 78711		
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED: <p style="text-align: center;">NOV 15 2004</p>	18. DATE APPROVED: <p style="text-align: center;">DEC - 8 2004</p>		
PLAN APPROVED - ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: <p style="text-align: center;">OCT - 2 2004</p>	20. SIGNATURE OF REGIONAL OFFICIAL: 		
21. TYPED NAME: Carmen Keller	22. TITLE: DCD (Deputy Director - CMSO)		
23. REMARKS: <div style="height: 40px;"></div>			

- (K) Medicaid Swing Bed Program for Rural Hospitals. When a rural hospital participating in the Medicaid swing bed program furnishes NF nursing care to a Medicaid recipient, HHSC or its designee makes payment to the hospital using the same procedures, the same case-mix methodology and the same TILE rates that HHSC authorizes for reimbursing NFs receiving the direct care base rate with no enhancement levels. These hospitals are not subject to the staffing and spending requirements.
- (L) Reinvestment. HHSC will reinvest recouped funds in the enhanced direct care staff rate program.
- (1) Identifying qualifying facilities. Facilities meeting the following criteria during the most recent completed reporting period are qualifying facilities for reinvestment purposes.
- (a) The facility was a participant in the enhanced direct care staff rate or, for state fiscal years 2004 and 2005 only, had been a participant at level 0 in state fiscal year 2003 and was reclassified as a nonparticipant due to the elimination of level 0 in state fiscal year 2004.
 - (b) The facility's unadjusted LVN equivalent minutes as determined in (VI)(G)(1) were greater than the number of LVN minutes required of the facility as determined in (VI)(D).
 - (c) The facility met its spending requirement as determined in (VI)(I).
 - (d) An acceptable Staffing and Compensation Report was received at least 30 days prior to the date distribution of funds was determined.
 - (e) The Medicaid contract that was in effect for the facility during the reinvestment reporting period is still in effect as an active contract when reinvestment is determined or, in cases where a change of ownership has occurred, HHSC or its designee has approved a Successor Liability Agreement between the contract in effect during the reinvestment reporting period and the contract in effect when reinvestment is determined.
- (2) Distribution of available reinvestment funds. Available funds are distributed as described below.
- (a) HHSC determines units of service provided during the most recent completed reporting period by qualifying facilities achieving, with unadjusted LVN-equivalent minutes as determined in (VI)(G)(1), each enhancement option above the enhancement option awarded to the facility during the reporting period and multiplies this number by the rate add-on associated with that enhancement in effect during the reporting period.
 - (b) HHSC compares the sum of the products from (VI)(L)(2)(a) to funds available for reinvestment.
 - (i) If the product is less than or equal to available funds, all achieved enhancements for qualifying facilities are retroactively awarded for the reporting period.
 - (ii) If the product is greater than available funds, retroactive enhancements are granted beginning with the lowest level of enhancement and granting each successive level of enhancement until achieved enhancements are granted within available funds.